

**LABORATORY CERTIFICATION STANDARDS REVIEW COUNCIL  
MEETING MINUTES FROM 2/15/2001**

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**Attendance**

Council Members: George Bowman, Debbie Cawley (Chair), Paul Junio, David Kollakowsky (Vice Chair), Marcia Kuehl, Ruth Klee Marx and Gilbert Williams

DNR Staff: Rick Mealy, Greg Pils, Alfredo Sotomayor, Phillip Spranger and Jack Sullivan

Guests: Barb Burmeister, Paul A. Harris, Kurt Knuth, R. T. Krueger, Art Lautenbach and Carol Mielke

**Summary and Action Items**

At this meeting the Certification Standards Review Council:

- Approved the previous meeting's minutes;
- Elected the following Council officers: David Kollakowsky, Chair; Paul Junio, Vice Chair; and Ruth Klee Marx, Secretary. Terms are for one year and commence at the conclusion of the Council meeting;
- Were provided an update on the Bureau's efforts to fill the Environmental Science Services section chief position;
- Reviewed the Laboratory Certification Program's \$517,229 Fiscal 2002 budget and recommended approval by the Natural Resources Board;
- Were presented an overview of the status of the Program's Regional and Central Office audit activities;
- Discussed the Department's decision to not pursue becoming a NELAC accrediting authority;
- Were notified of the recipients of the "Lab of the Year" awards; and
- Tentatively scheduled the next Council meeting for May 17, 2001.

**Agenda Items**

**I. Check in/Agenda Repair**

- A. Debbie Cawley opened the meeting by asking those present to introduce themselves.
- B. Ms. Cawley asked if there were any late items to add to the agenda. Jack Sullivan asked to be able to provide an update on filling the ISS Section Chief vacancy right after the "Election of Officers" topic since he could only stay for the morning. Greg Pils asked to add an item under Other Business to update the Council on the recipients of the lab of the year awards.

**II. Approval of December 15, 2000 Meeting Minutes**

- A. The Council reviewed the minutes from the December 15, 2000 meeting. No corrections were requested. George Bowman made a motion to approve the draft minutes, Marcia Kuehl seconded and the minutes were approved unanimously by the Council members present (David Kollakowsky was delayed in getting to the meeting until after the vote.).

**III. Election of Council Officer**

- A. The Council discussed the election of officers. Phillip Spranger noted that the relevant statutory citations can be found in s. 15.09(2) Wis. Stats. This subsection states in part: "at its first meeting in each year every council shall elect a chairperson, vice chairperson and secretary from among its members." The Secretary is largely a "figurehead" since organizing the meeting and taking minutes are handled by the DNR council liaison (Mr. Spranger). The Secretary rounds out the executive board of the Council and would provide a tie-breaking vote if the board needed to make decision regarding Council business (agenda items, canceling a meeting, etc.)

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between regular meetings. The previous practice has been to have the new officers begin serving their terms after the conclusion of the first meeting (this meeting).

- B. Debbie Cawley opened by nominating David Kollakowsky for Chair. Mr. Kollakowsky nominated Ms. Cawley as Chair. Ms. Cawley declined. With no other nominations forthcoming, George Bowman seconded Mr. Kollakowsky's nomination and made a motion to close nominations. Mr. Kollakowsky was elected Chair unanimously.
- C. Gilbert Williams nominated Mr. Bowman for Vice Chair. Mr. Bowman declined. Mr. Kollakowsky then nominated Paul Junio for Vice Chair and Ms. Cawley seconded. Mr. Junio was elected Vice Chair unanimously.
- D. Ruth Klee Marx nominated Ms. Cawley for Secretary. Ms. Cawley declined. Mr. Kollakowsky nominated Ms. Marx, who accepted. Marcia Kuehl seconded the nomination and Ms. Marx was elected Secretary unanimously.

**IV. Update on Filling the ESS Section Chief Vacancy (Added under agenda repair)**

- A. Jack Sullivan updated the council on filling the ESS Section Chief vacancy. The recruitment produced a good list of candidates and interviews have been completed. The Program's administrator and the Department Secretary will help decide on the successful candidate because it is a senior management position. Someone should be named by the end of February at the Bureau's statewide meeting.

[Note: David Webb was hired as the new Environmental Science Services Section Chief and will start his new position on March 12, 2001]

**V. Review and Approval of the Laboratory Certification Program FY 2002 Budget**

- A. Greg Pils presented an overview of the Program's \$517,229 FY 2002 budget and fees to the Council. A fact sheet was provided. Mr. Pils noted that the budget was a decrease from the \$539,100 FY 2001 budget and the smallest budget since FY 1999. The decrease is due to the recent reassignment of regional audit responsibilities, which eliminated the need to contract auditing services from Northeast Region staff (saving ~\$10,000). Also, the Department's decision not to pursue NELAC accrediting authority eliminated the need for additional personnel and computer system upgrades (saving ~\$30,000).
- B. Marcia Kuehl asked how many FTEs (Full Time Equivalent Employees) were funded by lab certification fees. The fees fund five FTE chemists in the central office, two ½ time FTE audit chemists in the regions, 50% of an FTE program assistant for administrative support in central office and 38% of the Bureau of ISS's FTE environmental fees specialist. David Kollakowsky asked whether all lab cert. staff were funded by program revenue. The ESS Section Chief, Ron Arneson (lab services) and Donalea Dinsmore (Quality Assurance) are paid from general purpose revenue (GPR) because their responsibilities cover more than lab certification.
- C. There was a question regarding the possibility of a surplus in the lab cert. account now that there will be no more NELAC-related expenditures in FY 2001. Mr. Pils responded that the savings from not pursuing NELAC will be used to purchase much needed PC upgrades for lab cert. staff, adding that regional staff are severely underequipped. When the Program ends the fiscal year with a surplus balance, the balance is returned to the Program's undesignated reserves. Currently, this is approximately 10% of the proposed budget.
- D. Mr. Pils wrapped up by discussing the method for computing fees. The result of budgeting lean, eliminating the need to contract for regional audits and savings from not pursuing NELAC means that the fee schedule for FY 2002 will be the same as in FY 2001.
- E. Paul Junio asked how the Program projects the number of application in the coming year. NR 149 requires that the number of applications from the last complete fiscal year be used.
- F. George Bowman made a motion to recommend approval of the budget as presented. David Kollakowsky seconded and the motion was approved unanimously.

**VI. Status of Audits Under NR 149 – Regional Responsibility**

- A. Rick Mealy, Regional Audit Coordinator, updated the Council on regional audit activities. Mr. Mealy first summarized recent staffing changes. He noted that the Program is trying to use permanent full time equivalent (FTE) auditors (working half-time) instead of limited term employees (LTEs), which has helped increase continuity within the regional audit program.

Camille Johnson (FTE) was hired in West Central Region (WCR) last fall to fill a vacancy that had been open for 21 months. Susan Watson covers the Northern Region. She is a permanent full time permit coordinator. The Program “buys” her time by sending LTE dollars to the Region. Don Domencich, LTE and 15 year veteran auditor, has relocated to Northeast Region (NER) from Southeast Region (SER). The Program had previously contracted with Linda Vogen in NER so this move actually saves the program approximately \$10,000 that would have paid for that contract. The move created a hole in SER. However, John Condrón, FTE from the Central office, has taken over in SER. Brenda Howald (FTE) covers South Central Region (SCR).

Some of the county responsibilities were adjusted to even out the workload for the regional auditors. Five SCR counties were assigned to Camille Johnson in WCR and Fond du Lac county was assigned to John Condrón. The rest of Mr. Mealy’s comments were in response to specific questions posed in a 12/18/2000 e-mail message from Ms. Kuehl.

- B. **How many audits are conducted each year?** Mr. Mealy discussed the history of regional audits, comparing and contrasting previous year’s numbers. There should be approximately 115 to 116 audits of regional labs each year to visit all 343 labs once every 3 years. This level was never reached prior to FY 1997, except for FY 1994 when a single auditor completed 67 cursory on-site evaluations.

In FY 1997 all regional auditors were retrained. Also that year, Colleen Higgins was the first half time regional auditor hired as an FTE instead of an LTE. In the following two fiscal years, the audit goal was met. Ms. Higgins left the program in 1999, leaving WCR without an auditor for 21 months, and the contracted auditor in NER was pulled from lab certification duties by other priorities. The result of these developments was a significant drop in the number of regional audits in FY 2000 (76 audits or 2/3 of the goal of 115).

Regional audits conducted in the first half of FY 2001 were impacted by these same staffing issues as well as the demands of NELAC implementation. There were 47 audits conducted in the first six months of FY 2001. However, another 66 audits are expected before the end of the fiscal year, bringing the total close to goal. Currently, all five regions have adequate staffing to cover audit goals and Mr. Mealy expects 116 regional audits in FY 2002.

Council members posed several questions. Are there plans for refresher training for the auditors? Not formal training. The regional auditors meet quarterly by conference call and have one to two face-to-face meetings each year. Does Mr. Mealy go out on audits? Yes, at least once with each auditor each year. Do we communicate audit findings with the lab community in LabNotes. Yes, in a special wastewater topics section.

- C. **How many outstanding audit reports are there?** Mr. Mealy noted that there are 19 outstanding audit reports. However, three should be completed in February. Most of the rest are from NER which has had staffing issues that are now resolved. The slate will be cleared by revisiting labs in FY 2001 and FY 2002. How many labs have not been seen? Zero in the regions.
- D. **How many cases are still open?** (i.e., How many lab’s responses to audit reports are still open?). There are 84 audit cases still open: labs either did not respond or the auditor is seeking additional information. Thirty-one of those are in NER and now that Don Domencich has taken over there shouldn’t be any problems following up on these. Some are enforcement cases. Mr. Mealy expects to see most of these resolved in the next three to six months.
- E. **Backlog management?** (i.e., An aging report.). As of February 2001, 95 labs were overdue for an audit. However, 66 of those labs will be seen by the end of the current fiscal year (June 30, 2001), leaving 29 overdue audits going into FY 2002. Another 130 labs will be due for audits in FY 2002, for a total of 159 audits due in

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fiscal year 2002. The audit goal is 115 per year, leaving a projected backlog of 44 audits at the end of FY 2002. Mr. Mealy noted that the 44-audit backlog is 38% of the audit goal, which is the lowest percentage backlog since FY 1998. Mr. Mealy noted that he will go out and help do audits in the regions to get things caught up.

- F. **How many applications have been processed?** Regionally audited labs submitted 29 application over the past two years. One was a change of ownership, two expired and 12 audits were waived. The 14 audits resulting from applications in the previous two years were all conducted within the 90 days allowed in NR 149. The average was 11.5 days. Audits resulting from applications have not significantly impacted audit goals.

**Status of Audits Under NR 149 – Central Office Responsibility**

- A. Alfredo Sotomayor, Senior Audit Chemist, updated the council on central office audit activities. All figures are for calendar years. A handout listing the number of audits and audit demand was provided. Audits in 2000 dropped off sharply due to the NELAC workload. There were a total of 13 audits conducted out of the central office in 2000, compared to 26 in 1999 and 39 in 1998.
- B. Mr. Sotomayor explained that the program plans for between 16 to 18 audits per auditor per year, depending on enforcement cases or other problems. Mr. Sotomayor personally plans for around six audits because of all his other responsibilities. The central office plans for a maximum of 54 audits per year without enforcement cases or problems. Central office auditors are responsible for 135 labs.
- C. There is a current backlog of 59 audits (due in 2000 or before), with another 40 audits due in 2001. Ideas for handling the backlog are under development. The program is somewhat unstable right now with the NELAC effort ending and a new Section Chief still to be named. It was hoped that NELAP would eliminate the out-of-state lab audit workload.

One idea is to build on the work of the NELAC implementation team to improve the program. Another is doing pre-assessments for each lab to be audited. A pre-assessment would involve visiting a lab to quickly identify system problems (a systems audit) and then returning three months later for the audit. The average audit takes from two to three days. A small drinking water lab may take only one day.

- D. There are 3 audit reports outstanding and the Wisconsin Department of Agriculture Trade and Consumer Protection (DATCP) is the only lab never to be audited. However, the DATCP lab does very little work that comes to DNR.
- E. There was discussion of the balance between in-state and out-of-state audits. A participant commented that out-of-state audits cost less because the lab pays travel expenses, so what is the complication with out-of-state audits? Mr. Sotomayor responded that it is an equity issue. In-state labs wanted out-of-state labs to be held to the same standards. However, in-state labs do most of the work in the state, are a higher priority and are audited more frequently.
- F. Marcia Kuehl asked how many emergency audits are conducted each year? Around 10 un-planned audits were conducted in response to a notice of non-compliance or notice of violation. It is possible that more problems will surface if the economy worsens. Also, the audit backlog may result in more enforcement cases since many labs have not been audited in a while.

Paul Junio asked what information is required for reciprocity certification? Labs seeking reciprocity certification must submit an application and fees. As long as the agreement with the certifying state is in place these labs just send in their home-state certification and a copy of their audit report.

Marcia Kuehl asked what moves a lab to the top of the audit priority list? A new or revised application (the 90-day clock), consecutive reference sample failure and the three-year revisit schedule.

- G. Paul Junio noted that the Wisconsin Environmental Laboratory Association (WELA) discussed a provision in NR 149.41(2) that states in part "The council shall advise the department on the frequency and scope of evaluations necessary to determine compliance with this chapter." Mr. Junio asked whether there was a standard operating procedure (SOP) on audit priority? There is currently no SOP on audits. Mr. Junio wondered whether the Council would like to see the SOP when available so they can help prioritize? Mr.

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Sotomayor noted that the Program emphasized documenting procedures in the letter notifying labs about the Department's position on NELAC. At this point we are waiting for the new Section Chief. Jack Sullivan indicated that the Program will work through the council and the lab sector when deciding how to proceed.

**VII. Other Business – Lab of the Year Award Recipients**

- A. Greg Pils informed the Council of the recipients of the lab of the year awards. The awards go to registered labs in large and small categories that run exemplary operations and have “gone beyond compliance.” Consolidated Papers Wisconsin River Division (now, Stora Enso) received the large lab of the year award and Blanchardville Wastewater Treatment Plant won the small lab of the year award.

**VIII. Discussion of the Department's Position on NELAC**

- A. Alfredo Sotomayor discussed the Department's decision not to pursue statutory changes to allow the Program to become an accrediting authority recognized by the National Environmental Laboratory Accreditation Program (NELAP). Legislation to authorize such a move passed the Assembly last year but never made it out of committee in the Senate. In 2000, parallel track legislation was put forward in both the biennial budget and in a separate proposal. The Assembly sponsor was Rep. Kedzie.

After initially supporting the Department's position, the Wisconsin Environmental Laboratory Association decided to remove its support for the legislation citing competition issues and a philosophical opposition to a “two-tiered system.” The DNR Secretary asked for a recommendation from the Program's administrator, Dave Meier. Mr. Meier met with various interested parties and recommended that the legislation be pulled. The legislation was then formally removed from consideration and a February 5, 2001 letter was sent to all certified and registered labs communicating that decision.

- B. The Department administrators do not want the Program to waste the time spent on NELAC implementation. The work done on NELAC implementation can be used as a starting point to improve the lab cert. program. There is also interest in pursuing a “systems” approach to auditing.
- C. One proposal on how to proceed is to accept NELAC accreditation without becoming an accrediting authority. Several other states are doing this. Unfortunately, the statutes do not provide this flexibility. There are three statutory provisions relating to recognition of other certifications. One provision allows recognition of labs certified by DATCP, another covers reciprocity and the third covers an agreement with a private non-profit organization. This last provision, located in s. 299.11(5)(c) Wis. Stats., seemed the most promising. However, the Program's attorney points out that as currently constituted neither NELAP or the States are private. The National Environmental Laboratory Accreditation Council (NELAC) is a private non-profit; however, NELAC doesn't accredit labs, they set standards. Conclusion: We cannot recognize NELAP accreditation without a statutory change.
- D. There is a directive in s. 299.11(7)(a) Wis. Stats. that states the criteria for evaluating labs should be consistent with nationally recognized criteria to the maximum extent possible. So, whatever we do it should be as close as possible to NELAP.
- E. Discussion followed Mr. Sotomayor's presentation. Are we going to solicit outside input on changing the program? The Program will craft a proposal internally and then take it public. Possibly, a sub-committee will be set up. A council member advised against setting up a technical advisory committee (TAC).

Which states have implemented NELAP? California, Pennsylvania, Utah, New Jersey, New York, Florida, Kansas, Illinois, Oregon and Louisiana. Can the fact that a lab is NELAP accredited be used to help prioritize audits? Can audits be waived for NELAP accredited labs? Not according to the NR 149.

Have other states dropped out of NELAP? In Colorado, NELAP legislation had support but didn't pass because there was no money to implement it. Two states, New Jersey and Pennsylvania, limited the applicability of NELAP as they went through the implementation process.

- F. Council members questioned how the audit process can be accelerated. Some ideas were to streamline the process by looking at systems and then concentrate on a couple of specific tests. Conducting pre-assessments

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might help but you still need to visit each lab. Can the pre-assessment be accelerated by having all labs come to a central location for a “systems” presentation? There is nothing like having an auditor in the lab to provide a “reality check.” However, the systems presentation could complement the pre-assessment.

- G. David Kollakowsky wondered why it takes a month per audit. Mr. Sotomayor noted that the audits take an average of 2-1/2 days and the evaluation report can be very extensive depending upon what the auditor finds during the visit. Following up with the lab on correcting deficiencies is dependent upon how many problems were encountered and how cooperative the lab is. All of the auditors have other duties they are responsible for as well. One recent problem is that the Program lost 2 LTEs and the auditors had to do a lot of tasks they normally don't have to worry about. Training the new Project Chemist has also occupied the auditors' time.
- H. Marcia Kuehl asked how much time auditors will spend on NR 149 rewrites? Mr. Sotomayor anticipates pulling together a small group of people to work on rule revisions and would like to change the easy stuff first. Paul Junio noted that WELA is going to try to come up with a wish list of changes to NR 149.
- I. Mr. Sotomayor noted that until we get direction from the Program's administrators we can't promise much. We can't get too far out ahead of ourselves. He also cautioned to look back at the statute and its limits.

**IX. Future Meeting Dates**

- A. The next Council meeting was tentatively scheduled for Thursday, May 17, 2001, time and location to be announced. Please forward agenda items through Phillip Spranger (608/267-7633 or spranp@dnr.state.wi.us) for the consideration of the Council officers. Some ideas for agenda items for the next meeting were: the ESS Section Chief, the Department's position on NR 149 revisions, the audit backlog and something from WELA on NR 149.
- B. A motion to adjourn was made by David Kollakowsky, seconded by George Bowman and carried unanimously.